A STUDY OF LAW INSTITUTION'S MOOT COURT AS AN ARBITRATOR, MEDIATOR AUTHORITY OF LOCAL AREA FOR QUICK JUSTICE REMARKS AND LEGAL AIDS.

A

SYNOPSIS

Doctor of Philosophy

(LAW)

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1.1 Introduction

The pillar and object of every civilized society is justice. Protection of fair access to justice is provided for in Article 39-A of the Indian Constitution. Administration of justice includes defence of the innocent, punishment to the guilty and the satisfactory settlement of disputes.[1]

India has one of the world's oldest legal schemes. The source of Indian law is the constitution that, consistent with its dispensations, gives due recognition to statutes, case law, and customary law. The Indian Parliament has authority to make laws on matters mentioned in the list of Unions. The State Legislature is qualified to make laws on issues specified in the list of States. Although both the union and the states have the right to legislate in the concurrent list on matters enumerated. Laws established by parliament may extend across or in any part of the territory of India and laws established by state legislatures may usually apply only within the territory of the country concerned.[2]

One of the peculiar features of the Indian Constitution is that it has traditionally provided for a single consolidated system of courts to enforce both Union and State laws, despite the implementation of a federal system and the presence of Central Acts and State Acts in their respective spheres. There is the Supreme Court of India at the apex of the entire judicial system, below which are the High Courts of each State or group of States. A hierarchy of subordinate courts lies under the High Courts.[3]

For a very long time, structured courts around the world have played a fundamental and leading role in the judicial delivery system. But it is understood that litigation is often an endless exercise. Litigation has become lengthy, expensive and formal in the courts and does not allow the parties power over the result. The ways to get out of these problems need to be found. Every person has a constitutional right to seek speedy justice, which is also the basic prerequisite of good judicial administration.[4]

As a result of changes in international trade, the legal system is unable to comply with the conditions of international trade or the private sector in order to provide speedy justice. The fast moving world and the growing shifts in business practices have not kept pace with litigation. The formal judicial framework has failed to satisfy the demands of justice. As a consequence, access to justice is denied to many persons. Today's need is for some concrete steps to speed up the disposal of cases and clear up the mounting arrears of cases in accordance with the demands of justice, equity and fairness.[5]

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[1] Hon'ble justice S.B. Sinha, Judge of Supreme Court of India, journal, ADR and Access to justice: Issues and Persoective, *available at:* https://shodhganga.inflibnet.ac.in (last visited on 12 February, 2021).
[2] Supreme Court of India, *available at:* https://main.sci.gov.in (last visited on 12 February, 2021).
[3] *Ibid.*
[4] Naresh Lata, speedy justice and ADR, *available at:* https://shodhganga.inflibnet.ac.in (last visited on 10 February, 2021)
[5] *Ibid.*

A judicial system is not only needed for providing justice but the justice should be delivered within a rational period of time. However, the existing available court infrastructure in India is not adequate to address the increasing litigation within a rational period of time. Despite this, for as long as a lifetime, a common man can sometimes find himself stuck in litigation and litigation sometimes goes on through to the next century. He may dry up his resources in this process, apart from suffering abuse. Thus, the legal process has a chain reaction, and civil cases can also give rise to criminal cases. The rapid disposal of cases and the provision of quality justice is an enduring agenda for all those associated with justice administration.[6]

A lack of efficient implementation of legal solutions to citizens in need is one of the key disadvantages of India's legal system and law enforcement agencies. Pending lawsuits are far more than the cases resolved in contrast. The key factor for such a phenomenon is the rise in the number of crimes and the time it takes for the judiciary to settle cases.[7]

While voicing the pendency problem, Chief Justice P.N. Bhagwati said in his 1985 speech on the legal day, "It is painful to note that the country's judicial system is on the brink of collapse." According to him, our legal system is crumbling under the weight of arrears, adding that those pursuing justice in our own courts have to wait patiently for years to get justice. The only people who profit from the delay in our courts are the corrupt who can keep their legal responsibilities from being met for years with impunity and any rich person who obtains orders and stays or injunctions against government and public authorities and then proceeds to benefit from such stay or injunction for years, even at the expense of public interest.[8]

S.B. Sinha Js. The issue of pendency is described as a "gigantic problem." He suggests that we should retain the maintenance of law and constitutional principles and not forget that the greatest preference should be given to all to access justice.[9]

The practical experience of the workings of the court and knowledge of law among litigators, lawyers and even the judiciary are inadequate. This itself causes and results in a variety of problems, triggering numerous lawsuits, as issues remain pending either in the trial court or in the courts of appeal.[10]

It is important to understand why, even after spending years together on a suit, cases do not achieve their finality of decision in the current system and why courts do not settle the matter on merits or pass judgments. [11]

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[6] *Supra* note 1.
[7] Sreeraj.K.V, article- concept of ADR in the present legal system of india, *available at:* ipleader.in (last visited on 11 February, 2021).
[8] Sawant Rashmi, *causes of pendency in judiciary* (2009) (Gokhale Institute of Politics and Economic).
[9] *Ibid.*
[10] *Id.* at 15.
[11] *Id.* at 16.

In addition to the constitutional clause, numerous other legal privileges are provided by separate legislation on social welfare. If a person has no means of having them implemented, these rights are of no avail. The rule of law envisages that before the law, all citizens are equal. The protection of rights must be upheld by the courts and judicial trials are very difficult, costly and dilatory, placing poor citizens at a disadvantage.[12]

The implications of pending cases in Indian courts: the confidence of the common man in the justice system is low at all times, denies the poor man and prisoners under trial their due of justice, economic reforms remain only on paper without a faster justice system, foreign investors are increasingly sceptical about the timely delivery of justice, which affects the effectiveness of programs such as 'Made in India,' Justice is postponed, justice is withheld, and justice is buried in haste.[13]

In its 222nd Report, the Law Commission of India stressed the need for dispensation of justice in India through Alternative Disputes Resolution mechanisms. The judicial administration has failed to ensure that it responds to the reasonable demands of the times and is in particular attuned to: (1) the elimination of delays, the rapid clearance of delays and the reduction of costs; and (2) the simplification of the process for reducing and removing technicalities and devices causing delays.[14]

In this sense, using alternative dispute resolution (ADR) mechanisms, there is an imminent need to complement the existing infrastructure of courts. In addition to achieving efficiency in the operation of the judiciary, steps are being taken around the world to use the ADR framework for the settlement of pending conflicts and at the pre-litigation level.[15]

Justice in all its facets-the messes of a nation must be made social, economic and political. By the use of conciliation, mediation and arbitration, this Act enshrines conflict resolution. As promised in the preamble to the Constitution, the constitutional promise of ensuring social, economic and political fairness for all people cannot be realized until the three state bodies, the legislature, the executive and the judiciary, come together to find ways and means to ensure fair access to the justice system for the poor.[16]

The word' access to justice' focuses on the following two essential objectives of a legal system:

(1) The system must be fairly available to all, and equally accessible to all.

(2) It must contribute to outcomes which are individually and socially equivalent.

[12] Krishna Agrawal, Justice dispensation through the alternative dispute resolution system in India, volume II Issue 2, *Russian law journal* 66 (2014).
[13] Alex Andrews George, the problem of pending cases in Indian courts: how to tackle? *available at:* clearIAS.com, April 9, 2017 (last visited on 13 February, 2021).
[14] *Supra* note 12 at 64.
[15] *Supra* note 1 at 2.
[16] *Supra* note 10 at 65.

Article 39A requires the State, by effective laws or schemes or some other means, to grant free legal aid to achieve justice on the basis of equal opportunity.[17]

1.2 The Code of Civil Procedure, 1908 Section 89.

The government of India has been very serious about the settlement of disputes outside the courts. Therefore, section 89 was introduced in 1999, being brought into force with effect from 1st July 2002. This section was introduced for the first time to settle disputes outside the court with the avowed objective of providing speedy justice. It is now mandatory for the court to refer a dispute after the issues have been framed for settlement either by way of: arbitration, mediation, conciliation, settlement through lok adalat. If the parties fail to settle their disputes through any of the alternative dispute resolution methods, the suit could proceed further in the court in which it was failed. Section 89(2) empowers the government and the High Court to make rules to be followed in mediation proceedings to affect a compromise between parties.[18]

1.3 Objective of Alternative Disputes Resolution

The main aim is to settle the dispute in such a way that the natural relations of the parties to the dispute remain the same as before. It also involves the dispute resolution from the agreement in which the disputants negotiate directly with each other to the arbitration that appears very much like a procedure in the courts The purpose of the ADR is not to eliminate the need for public adjudication, but to balance and sustain the judiciary. These alternatives offer relief from some of the stresses that obstruct the judicial system's efficiency. This removes uncertainty, cost and delay in the process, but supports the principle of access to justice.[19]

1.4 Techniques of Alternative Dispute Resolution

The ADR techniques mainly include arbitration:-

i. Arbitration
ii. Mediation
iii. Conciliation
iv. Negotiation
v. Lok Adalat

1.5 Functions of ADR

i. Alternative dispute resolution is not meant to replace the existing legal system entirely, but it provides the litigating parties with an alternative method.

ii. Alternative dispute resolution can be seen as a compromise where everybody walks out a winner, but not loses or gains.

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[17] *Supra* note 10 at 65.
[18] *Supra* note 12 at 73.
[19] Arpit Jain, Role of ADR in access to justice, volume 6, issue 6, *International journal of law* 37 (2020).

iii. Alternative dispute resolution tendencies to handle conflicts in a neutral manner.

iv. Alternative dispute resolution can be seen as an integral part of the judicial reform process, consequence an alternative to access to justice.

v. This strategy aims to find a stronger, long-lasting solution.[20]

1.6 Arbitration

Arbitration is part of the process for alternative conflict resolution that helps parties who wish to escape the usual protracted recourse to local courts for dispute settlement. It is a legal procedure for out-of-court conflict settlement, in which the parties to a dispute refer it to one or more individuals, namely arbitrators, by whose decision (the award) they agree to be bound by a binding decision.[21]

The word arbitration means any arbitration, whether or not conducted by permanent arbitral institutions, specified in Section 2(1) of the Arbitration and Conciliation Act 1996.[22]

Article 2 of the UNCITRAL Model Law specifies that arbitration is the process by which the parties to a dispute are resolved by the intervention of an agreed third party. Arbitration is a procedure carried out in compliance with an agreement to arbitrate the matter at issue.[23]

According to Halsbury- Arbitration, after hearing both sides in a judicial manner, implies the referral to a dispute or discrepancy between not less than two parties for decision by an individual or persons other than a court of competent jurisdiction.[24]

1.6.1 Significance of Arbitration

In general, arbitration is considered a more effective mechanism than litigation because it is faster, less costly, and offers greater process and procedure versatility. Sometimes, the parties appoint the arbitrator and exert control over some aspects of the arbitration process. Usually, arbitrators have greater experience of the basic subject matter of the conflict than judges do. They can also have greater decision-making flexibility.[25]

1.7 Mediation

Mediation is a conflict settlement mechanism in which, with the consent of the disputing parties, one or more impartial third parties or an unbiased neutral party intervenes in a dispute and assists them in negotiating a consensual and knowledgeable agreement. The third party should not force a settlement on the parties because they are free to decide under their terms and conditions. It is a confidential settlement procedure in which an independent

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[20] *Supra* note 1 at 4.
[21] Arbitration law in India, *available at*: viamediationcentre.org (last visited on 15 February, 2021).
[22] *Ibid*.
[23] Dr. S.C. Tripathi, *Arbitration and Conciliation Act, 1996* 25 (published by central law publications, 5th edition, 2010.)
[24] *Ibid*.
[25] Signification of arbitration, *available at*: findlaw's.com (last visited on 12 February, 2021).

third party or a mediator allows the parties to settle a conflict. The mediator has no power to make the parties' decisions binding, but he can enable the parties to reach an agreed settlement without adjudication by using certain methods and skills.[26]

The mediator plays a role in fostering cooperation between the parties and also in helping them to reflect on the issues of conflict between them and in creating solutions that meet the desires and needs of the respective parties. The mediator allows the parties to reflect on the specific problems of disagreement and helps them to explain the strengths and limitations of their legal roles and to discuss the implications of not resolving the conflicts.[27]

1.7.1 Significance of Mediation

a) Without expense and considerable stress, the conflict is resolved.
b) The compromise, which is the agreement of the parties themselves.
c) Confidentiality is respected.
d) The relationship is maintained between the parties.
(e) Operates on a mutual beneficiary approach.[28]

1.8 Moot Court as an Arbitrator/ Mediator Authority of Local Area for Quick Justice.

Moot Court is a simulated court trials or simply a dummy court where students of law study and present a moot issue to their sides. The procedure includes the review of the moot problem, the examination of the relevant rules, the preparation of written submissions and oral arguments before a panel of judges. In areas of law that are unsettled or that have been subject to recent changes, moot issues are typically framed. This not only encourages students to remain up-to-date with the rules, but also instigates the willingness of students to think critically. Moot courts provide law students with the atmosphere of actual courts where adequate legal proceedings and trials take place and students have to get on the role of experienced lawyers and defend their side of the hypothetical case. Moot Court is nothing but a method of grooming trained lawyers into law students.

So solving local area cases through moot courts can no doubt provide quick justice as compare to court trial. Judicial is overburden with litigation. The number of litigation filed is much more then the disposal of cases. People not get justice because a courts proceeding is lengthy and very expensive. There is a concept of alternative dispute resolution but people are not aware of it. If every law institutions has their own moot court rooms and act as an arbitrator, mediator authority of local area people get quick justice and problem of judicial system can be resolved.

[26] *Supra* note 14 at 39.
[27] *Ibid.*
[28] *Ibid.*

Arbitration is emerging as a method to release the burden of court backlog of litigation, but due to few arbitrators and mediation centres and long legislative accepted process, it shows some negative colour as well as the number of cases under arbitration is growing. Under the moot court scheme, this can be worked out by settling local area cases at universities. It also has its own benefits for parties, teachers, universities, judges, and society. If we talk about students they get a practical exposure that will benefit them in future to start their career-high pitched. Parties need not to go far away and escape from paying fees and get their dispute resolved fast. Besides that teachers and students are more aware of situation custom prevailing and can give enough time. Fast disposal of cases, good advocates or judges benefit the society as well.

1.9 Problem Profile

There is a well established judicial system in India. But the currently available infrastructure of courts in India is not adequate to settle the growing litigation within reasonable time. It is experienced that sometime litigation becomes endless exercise. Litigation in the court has become lengthy, costly and formal. Pending cases are comparatively much more than the case settled. Although Alternative dispute resolution mechanism is there to resolve the dispute but majority of Indian population is not aware of arbitration for resolution of dispute. Presently there are no universities in India having a separate faculty or department of arbitration, mediation nor is arbitration law taught as a specialized subject in any of the law institute.

1.10 Objectives of the Study

1. To study how to reduce the burden of judiciary in India.

2. To study the reason of pendency of cases in the present judicial system.

3. To create awareness among the people about the concept of Moot Court.

4. To analysis the effectiveness of Moot Court for speedy justice.

5. To analysis to what extent Judges, Advocates, and Client are in favour of moot court as an arbitrator, mediator authority of local area.

6. To analysis the date collected by way of field work.

1.11 Hypothesis

1. Moot court is an effective mode of dispute resolution for local area cases compare to lengthy court proceedings in India.

2. Moot Court as an arbitrator, mediator authority provides speedy and cost effective remedy to the litigants in India.

3. Moot Court work as an arbitrator, mediator authority reduces the burden of judiciary.

1.12 Research Methodology

This study is broadly designed to know the effectiveness of arbitration, mediation and moot court as an arbitrator, mediator authority of local area for quick justice. The methodology, which is going to be adopted for the research work is based on non-doctrinal research methodology. For this, the researcher shall collect the primary data from the individual, litigants, court, and mediation centre, advocates' trough questionnaire by interview with advocates, litigants, individuals, mediation centre, and administrative officer of courts. And also through statutes, reports of law commission for purpose of collecting data for the study. For secondary data the researcher review various text books, commentaries, encyclopaedias, dictionaries, journals, magazines, articles, research paper, newspaper, thesis, judgments, previous cases on the subject for the purpose of collecting literature for the study. Substantive help will be taken from internet sources also. The researcher will visit to various libraries of courts and different universities.

1.13 Review of Literature

The topic itself have great scope and covers wider area. It is almost not possible in details to discuss all the aspects of alternative dispute resolution mechanism and the delay in providing justice. The purpose of this chapter is to review the literature related to the arbitration and mediation. The chapter concludes with discussing the problems and limitations of previous research and the current gaps in knowledge.

1. The researcher *Rashmi Sawant,* in his thesis "*Cause of pendency in judiciary with special reference to regular civil suits''* has observed that The transfer of cases should be prevented and, if transferred, the deadline for final disposition must be time-bound. This will improve the hands of judges to monitor the tactics of parties and supporters, and will eliminate the fear of false accusations. Greater incentives for the disposal of old civil cases must be given. Disposal criteria for the oldest cases should be updated and, when preparing confidential reports about judges, also considered. Every court's determination should be by disposal, by decisions and not by the bar report. Specialized and seasoned dignitaries should be named as judges to resolve special issues relating to specialized expertise. If the judges work in the

civil procedure code according to the specified procedure, and the civil manual, cases can be easily disposed of. An independent oversight and policy development committee should be in place to track the work and address issues faced at the grassroots level.[29]

2. The researcher *Shekher Kumar,* in his thesis *"Alternative Dispute Resolution System in India a Socio Legal Study''* has observed that For the provision of a solution via ADR, a national network must be envisaged. Alternative Dispute Resolution is a prerequisite, both at the national and international levels. The standard of justice suffers when the decision on piles of cases is excessively postponed. If a better way has been used and discovered, then it is not a wiser display to hang on to conventional principles. This approach is helpful in successfully providing justice, which is the central cornerstone of any judicial system. Alternate dispute Settlement with serious care and proper management is an appreciable measure if taken. From speedy justice, fewer costs, deserved justice, protected secrecy and final happiness, a common man can enjoy many of its benefits. By means of a support structure, the alternative conflict resolution system has been able to improve the justice system.[30]

3. The researcher *Munketh Ahmed Abdulkarim,* in his thesis *"Law and Practice of International Commercial Arbitration''* has observed that Arbitration is the oldest means that human resort to it has been known since the beginning of human society to settle the disputes that occur between him and his peers, and then arbitration has become the most important means for foreign trade traders to resolve their disputes. Arbitration is currently known as the prevailing tool used to resolve conflicts between persons and entities. Since it has many merits, it is the prevailing form. Such advantages can include: saving time and effort, protecting the commercial secrets of the parties to the disputes, and being able to settle disputes. In order to circumvent judicial authorities, arbitration is not simply a legal procedure accepted by judicial systems to settle disputes. Arbitration may also be viewed as a kind of private tribunal. In their free will, the parties to the conflicts chose to turn to it as an outstanding tool for resolving the conflict between them. It can be evident that arbitration has become a popular and popular way to settle conflicts arising out of contractual relationships.[31]

[29] *Supra* note 8.
[30] Shekher Kumar, *Alternative dispute resolution system in India a socio legal study* (2012) (Panjab University Department of law).
[31]Munketh Ahmed Abdulkarim, *Law and practice of international commercial arbitration* (2018) (Aligarh Muslim University).

4 The researcher *Sarika Tyagi*, in his thesis *"International commercial arbitration an ultimate remedy in commercial obligation with special reference to India"* has observed that the root of their rights gave rise to the dispute between them as society came into being and people communicated with each other. A process was required to settle the conflict between them. They began to settle their disagreements in this regard by means of a third independent party, the decision of which was later decided by all parties and known by the name of alternative conflict resolution. There are certain theories for the advent of arbitration, such as that man tend to use arbitration to settle their disputes rather than the courts, because court litigation has different adverse factors, such as time, expense of legal proceedings, etc. Arbitration has various positive factors, such as versatility, time saving, expense, etc. These are reason to the performance of arbitration at national as well as international level and parties chose arbitration rather than choosing litigation in a court. Arbitration for dispute settlement is not known to the majority of the Indian population. Awareness campaigns must also be undertaken by the Indian Arbitration Council.[32]

5. The researcher *Saurabh Kulsrestha,* in his thesis *"Alternative dispute resolution mechanism: a case study of Delhi"* has observed that Private negotiation and conflict resolution is not a newly conceived method resulting in the promulgation in the recent centuries of arbitration rules. The law and procedure, without court interference, of private and transactional commercial disputes is rooted in the haze of ancient history. In India, arbitration as an alternative to conflict settlement has been prevalent in its own form since Vedic times. It is also a well-known procedure to give the aggrieved party an opportunity to exhaust the appeal remedy against the judgment of the lower forum. From the time immemorial, straight from the medieval, British, post and pre Independence era, the principle of arbitration was recognized and after a long scroll through trial and error was properly carved out to meet the demands of the litigants, both relevant to economic and commercial transactions, eventually to secure ends of justice. Arbitration has a history in this country as a mode of resolution of disputes between the parties, as per settled law derived from different decisions. It has a social objective to fulfil. In terms of money, time and energy, the cumbersome process and protracted litigation is very expensive. The modern era is now very concerned with the purpose of the litigation to be reached so that they know where they are. The arbitral proceedings are therefore intended to ensure that the decision is given finality in a fair, efficient and speedy trial. It is also intended to minimize and enhance the assistance of the courts' supervisory role. In the arbitration legislation enacted for judicial intervention, the legal rules and provisions of law are a boon and edifice for establishing the arbitration mechanism as a speedy justice.[33]

[32] Sarika Tyagi, *International commercial arbitration an ultimate remedy in commercial obligation with special reference to India* (2015) (Chaudhary Charan Singh University).
[33] Saurabh Kulsrestha, *Alternative dispute resolution mechanism: a case study of Delhi* (2012) (University of Delhi).

6. The researcher *Naresh Lata Singla*, in his thesis *"Speedy justice and alternative disputes redressal"* has observed that the alternative conflict resolution system has emerged as an alternative to the established framework for dispute resolution. The word can refer to everything from mediated mediation agreements in which disputants are allowed to personally negotiate with each other before any other legal process, to arbitration processes or mini trials that look and sound very much like a court process. There has been a considerable trend towards the settlement of disputes through an alternative mechanism of arbitration, due to the increase of international trade and business and also due to the lengthy delays in the disposal of suits and appeals in the courts. These alternatives can help to alleviate some of the pressures that currently hinder contemporary court systems' efficiency. Nationally and globally, the use of ADR has earned attention.[34]

7 The writer *Nishith Desai*, in his book *"Dispute Resolution in India: An Introduction"* has observed that the capacity for ineffective case management and indefinite delays in the disposal of cases is compounded by an overburdened judicial system in India. A stable and effective dispute settlement mechanism has long been needed to ensure swift compliance of contracts, easy recovery of monetary claims and the payment of solitary compensation for damages sustained, both of which are essential to fostering investment and economic development. There was a desperate need for efficient means of alternative dispute settlement due to the enormous pendency of cases in the courts of India. India's first implementation of arbitration was the 1940 Arbitration Act. The Arbitration Act, 1937, and the International Awards Act, 1961, created other complementary rules. As a result of rampant award appeals, arbitration under these laws was never successful and led to more litigation. The Arbitration & Conciliation Act, 1996, was passed by the legislature to make domestic and international arbitration more successful in India.[35]

8 The researcher *Krishna Sharma*, in his research paper *"Development and Practice of Arbitration in India- has it Evolved as an Effective Legal Institution"* has observed that In several cases, the rate of industrial development, modernization, and enhancement of socio-economic conditions has outpaced the rate of growth of dispute resolution mechanisms. Rapid growth has meant higher case loads for already overburdened courts in many parts of India, further contributing to notoriously slow adjudication of commercial disputes. As a result, alternate conflict settlement methods have become more crucial, parallel to arbitration. It is clear that, in the early 1990s, the globalization of the Indian economy and the consequent economic reforms necessitated the existence of effective dispute resolution mechanisms to resolve disputes quickly. To accomplish this objective of fast and cost-effective dispute resolution, the 1996 Act was enacted. In dispute resolution in India, arbitration occupies a prime position. An examination of the functioning of arbitration in India shows that

[34] Naresh lata Singla, *Speedy justice and alternative disputes redressal* (2012) (Punjabi University).
[35] Nishith Desai, Dispute Resolution in India- An Introduction, *available at:* nishithdesai.com, 2020 (last visited on 14 February, 2021).

arbitration continues to evolve as an institution and has not yet reached the stage of effectively meeting the needs accentuated by commercial growth. India, seen in its entirety, does not appear as a jurisdiction that carries an anti-arbitration bias. Indian courts do restrain themselves from interfering with arbitral awards, despite interventionist instincts and expanded judicial review. Nevertheless, there are still inherent problems that hindered the successful arbitration in India from the need to amend certain provisions of law to change the mindset of stakeholders who are judges, arbitrators, lawyers and parties involved, which are multifold. The researcher recommends that Indian universities may establish a separate arbitration law faculty or department to encourage specialized study and research.[36]

9. The researcher *Krishna Aggrawal,* in his research paper *"Justice Dispensation through the Alternative Dispute Resolution System in India"* has observed that Due to different variables, such as poverty, social and political backwardness, illiteracy, ignorance, procedural formalities, and excessive delay in judgments, the courts are inaccessible. Compared to costly litigation, alternative dispute resolution is a much easier and quicker way of securing justice. There is little acceptance of this by the people, despite the fact that there is a need for justice dispensation through ADR. This involves not only citizens in society's lower socio-economic strata, but also those in a highly prosperous and educated society. There is, therefore, a need in India for the ADR movement to be pushed forward more quickly. Considering the fact that delay in justice is equal to denied justice, this approach should be embraced. In India, where significant economic changes are under way within the context of constitutional law, strategies will have to be built to settle disputes more rapidly in order to reduce the burden on the courts and provide a means of settling disputes expeditiously. There is no better choice than trying to establish new conflict resolution approached.[37]

10. The researcher *Hon'ble Justice S.B.Sinha,* in his research paper *"ADR and Access to Justice: Issues and Perspectives"* has observed that ADR is faster, cheaper and more user-friendly than court operations. It gives people an interest that is not possible in the public, structured and adversarial justice system considered to be governed by the abstruse procedure and recondite the language of law in the course of resolving their disputes. It provides a choice of technique, method, expense, representation, and venue. The few things that need to be done most to encourage smooth ADR mechanisms are: the first thing to be done is to build knowledge and popularize the processes, and training programs on the ADR mechanism are essential.[38]

[36] Krishna Sharma, *Development and practice of arbitration in India- has it evolved as an effective legal institution* (2009) (University of Delhi).
[37] *Supra* note 12.
[38] *Supra* note 1.

11. The researcher *Arpit Jain,* in his research paper *"Role of ADR in access to justice"* has observed that the position and operation of the courts in society has been influenced by the alternative dispute resolution process. In order to have better conflict settlement mechanisms, alternative dispute resolution has been emphasised. The critical element of ensuring the protection of human rights is access to justice. At large, ADR has gained acceptance. Because of the growing strain of conventional courts, the ADR has gained popularity. The ADR mechanism is the product of the failure of the judiciary. In India, courts suffer from a backlog of cases involving a vacant judge's seat and inadequate facilities. The ADR methods are often used to avoid the expenses and avoid formal court delays. Arbitration plays an important role as it provides less time and is less costly for quick decisions. This mechanism should be welcomed because it reduces the workload of the courts and offers speedy justice without any added costs. Because of high prices, unnecessary attention and delays, people do not want to get involved in litigation. In contrast to the standard legal procedure, ADR mechanisms are inexpensive. It is particularly helpful to persons who are unable to meet the high costs of the courts involved in the conflict settlement. The researcher believes that it will be out of a very small field of application that lawyers have to play an active and constructive role in extending their area of operation to make the arbitration process more effective.[39]

12. The researcher *Mohammad Saidul Islam,* in his research paper *"Efficiency and Effectiveness of Alternative Dispute Resolution Schemes towards the Promotion of Access to Justice"* has observed that it is assumed that alternative conflict settlement methods are a negotiated method to dispute resolution that does not obey the intractable formalities of the adversarial trial framework. It is defined as informal, confidential, expeditious, effective, fostering peace and social harmony through the elimination of hostilities and contributing to a breakthrough in the prevailing crisis of case backlogging. Arbitration in our culture is not a modern phenomenon, but is never commonly used for formal civil procedures. It has generated high expectations and aspirations for the public of the litigant because it is likely to ensure dignity, impartiality and authenticity of the mechanisms when a conflict is resolved expeditiously with the expense and time saving of the parties in an amicable way under the supervision of the court. The introduction of the mandatory ADR mechanism in the family court has essentially opened up the multi-door house to provide citizens with justice. Arbitration provided a window of access to justice for all, especially for the poor or vulnerable groups of people who are unable to go to court because of their financial constraints or if they go to court, by employing a powerful lawyer for their financial restriction, they cannot step equally against the strong opponent.[40]

[39] Arpit Jain, Role of ADR in access to justice, volume 6, issue 5, *International journal of Law* (2020).
[40] Mohammad Saidul Islam, Efficiency and Effectiveness of ADR Schemes toward the promotion of access to Justice, volume 8, *research gate journal* (2014).

1.14 Tentative Chapter Plan

The following tentative chapterization for the research will be presented in a number of chapters, starting with introduction and ending with conclusion. A chapter may be divided into section and sub section as to present the content with due emphasis.

Chapter 1- Introduction

1.1 Brief introduction of judicial system.
1.2 History of judicial system.
1.3 Brief introduction of Arbitration.
1.4 Significance of Arbitration.
1.5 Brief introduction of Mediation.
1.6 Significance of Mediation.
1.7 Moot Court as an arbitrator, mediator authority of local area for quick justice.
1.8 Conclusion.

Chapter 2- Pendency of cases in India

2.1 Introduction.
2.2 Access to Justice.
2.3 Pendency of cases in Delhi District courts.
2.4 Covid-19 Increased Pendency of Cases.
2.5 Reason of delay.
2.6 Right to speedy Justice.
    2.6.1 Concept of speedy trial.
    2.6.2 Importance.
    2.6.3 Jurisprudence of speedy trial.
    2.6.4 Evolution of concept of speedy trial.
    2.6.5 Speedy trial as a Fundamental Right.
2.7 Judicial response or case laws.
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    2.8.1 under Arbitration and Conciliation Act, 1996.
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    2.8.3 under Code of Criminal Procedure, 1973.
    2.8.4 under Constitution of India, 1950.
    2.8.5 Malimath Committee.
2.9 Plea Bargaining.
2.10 Speedy Justice through ADR.
2.11 Conclusion.

Chapter 3- Alternative Dispute Resolution (ADR)

3.1 Introduction.
3.2 Need of ADR.
3.3 Objective of ADR.
3.4 Historical background of ADR.

3.5 ADR Techniques.
    3.5.1 Arbitration.
    3.5.2 Meditation.
    3.5.3 Conciliation.
    3.5.4 Lok Adalat.
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Chapter 4- An overview of concept of Arbitration

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4.2 Objective of arbitration.
4.3 Types of arbitration.
4.4 Why arbitration is preferred over Judiciary.
4.5 Appointment and qualification of arbitrators.
4.6 Procedure of arbitration.
4.7 Arbitral award.
4.8 Enforcement.
4.9 Judicial intervention in arbitration.
4.10 Role of arbitrator in providing quick justice.
4.11 Case laws.
4.12 Conclusion.

Chapter 5- An overview of concept of Meditation

5.1 Introduction.
5.2 Type of Mediation.
5.3 Appointment and removal of mediator.
5.4 Procedure of meditation.
5.5 Civil procedure mediation rules, 2003.
5.6 Principles of mediation practice.
5.7 Role of mediator in providing quick justice.
5.8 Case laws.
5.9 Conclusion.

Chapter 6- Moot Court as an arbitrator, mediator authority of local area for quick justice

6.1 What do you understand by the term Mooting?
6.2 Concept of Moot Courts.
6.3 History of Moot Courts.
6.4 Importance of Moot Courts.
6.5 Purpose of Moot Courts.
6.6 Survey analysis.

Chapter 7- Conclusion and Suggestion

1.15 Conclusion

The need for the hour to alleviate the issue of pendency is to think out of the box, said that chandrachud by justice means that our outdated ways of disposing of cases have resulted in the mechanism being obstructed and the judiciary overburdened with pendency. In order to resolve and fix these issues, we must contemplate and take urgent action so that people do not lose their confidence in the judiciary and its ability to impart justice.

More than ever before, public confidence in the justice system is the need of the hour. In achieving the socio-economic objectives enshrined in the constitution, the judiciary has a special role to play. Judges have to be mindful of social shifts in the task of achieving socio-economic justice for the people while preserving their freedom.

In India, where significant economic changes are under way within the context of constitutional law, strategies will have to be built to settle disputes more rapidly in order to reduce the workload of the courts and provide a means of settling disputes expeditiously.

So to resolve the problem of pendency of cases and overburden of judiciary there is only the mechanism available that is moot court. If provide a status of law institution moot court as an arbitrator, mediator authority of the local area it is helpful to litigants because there is no cost involved in filing a case, quick justice should be provided and a dispute can be resolve without any mental and physical harassment. It is helpful for the judiciary because it reduces the burden of courts, and judges should be able to focus on the serious matter. It is also helpful to law students because it has been seen that law students pass their LLB but not aware of court proceedings, or do not have practical knowledge in their field. People also get aware of the concept of arbitration and mediation.

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